

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

PREFERRED READY MIX, LLC

DEBTOR.

CASE NO: 21-33369-11

Chapter 11

**OBJECTION TO CONFIRMATION
OF DEBTOR'S PLAN OF REORGANIZATION (Docket 43)**

COMES NOW, Receiver, ROBERT BERLETH ("Mr. Berleth" or "Receiver") as appointed Receiver over co-Debtor ROBERT FORAN in Cause No. 19-DCV-267154, styled *Cameron Roesle v. Robert Foran et. al.*, in the 400th Judicial District Court in and for Fort Bend County, Texas, files this Objection to the Plan of Reorganization (the "Plan") filed by the Debtor at Docket 43, and in support thereof shows as follows:

1. Following an unpaid final judgment from 2019, the 400TH District Court of Fort Bend County, Texas appointed Robert Berleth as Receiver by Order, over Robert Foran and Nolan Star Trucking, LLC. *See* Exhibit A.
2. On September 30, 2021 the Court granted an order and ordered the Receiver to immediately seize the physical assets of Preferred Ready-Mix, LLC. *See* Exhibit B. The Receiver incurred expenses from towing and storage of the physical assets in the amount of \$11,938.80.
3. Debtor filed a voluntary petition under Chapter 11 on October 14, 2021.
4. On or about November 11, 2021, Mr. Berleth was in communication with Joyce W. Lindauer, Attorney for Debtor, about the assets he had seized before the Debtor filed bankruptcy. Both negotiated and agreed that the Debtor would pay to the towing and storage yard \$2,500 to

cover post-petition storage costs, and the plan would classify \$7,000 of expenses that Mr. Berleth incurred for towing and storage as an administrative expense claim. See attached Exhibit A.

5. Berleth objects to the misclassification and omission of Robert Berleth's claim. Berleth been misclassified as a wholly unsecured debtor. He holds an Administrative Expense Claim in the amount of \$7,000 against the debtor.

WHEREFORE PREMISES CONSIDERED Robert Berleth's requests that this Court deny confirmation and for such other and further relief to which it may be entitled.

Respectfully submitted by:



BERLETH & ASSOCIATES

Robert W. Berleth

Texas Bar # 24091860

SDOT #: 3062288

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Houston, Texas 77070

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APPOINTED RECEIVER FOR R. FORAN

CERTIFICATE OF CONFERENCE

I, undersigned counsel hereby certify that I have discussed or attempted to discuss the foregoing instrument prior to filing with Joyce Lindauer:

- 1) On or about November 9 2021 Debtor's bankruptcy council, Joyce Lindauer made contact with the Receiver about releasing the assets of the Debtor back to the debtor.
- 2) On November 11, 2021, the Receiver called Joyce Lindauer and left a message. The phone called was answered with an email with an offer to give \$2500 now and add \$7000 as an Administrative Claim later. The trucks were then exchanged for the \$2500 the following week.
- 3) On or about January 5, 2022, and again on January 27, 2022 the Receiver emailed Ms. Joyce to see why the Receiver's \$7,000 expense was not add as an Administrative Claim. There as yet to be a response from Ms. Joyce.

Affirmed.



BERLETH & ASSOCIATES

Robert W. Berleth

Texas Bar # 24091860

SDOT #: 3062288

9950 Cypresswood Dr., Ste. 200

Houston, Texas 77070

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APPOINTED RECEIVER FOR R. FORAN

CERTIFICATE OF SERVICE

I hereby certify that the foregoing instrument(s) has been served on all parties in interest as listed below by ECF transmission and/or by email and/or by facsimile and/or by depositing the same in the U.S. mail, regular mail, postage prepaid on this 28TH day of January, 2022.



BERLETH & ASSOCIATES
Robert W. Berleth

Courtesy Copies to:

DEBTOR

Preferred Ready Mix, LLC
8750 Scranton St.
Houston, TX 77041

DEBTORS ATTORNEY

Joyce W. Lindauer
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TRUSTEE

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